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U.S. District Court
Eastern District of MO

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

ROBERT M. SILLS,

Plaintiff,

v.

NICK ZOTOS,

Defendant.

Case No.____________________
(to be supplied by Clerk)

A JURY TRIAL IS DEMANDED

CIVIL COMPLAINT

I. JURISDICTION

Jurisdiction of this Court is invoked in this tort action asserting professional malpractice under 28 U.S.C. Section 1332 (diversity of citizenship). The matter in controversy exceeds, exclusive of interests and costs, the amount of $75,000.00, as will hereinafter more fully appear.

II. PLAINTIFF

The plaintiff is a prisoner of the United States, currently confined at 301 N. Second Street, St. Charles, Missouri, on the basis of a writ of habeas corpus ad testificandum. Prior to being transferred to 301 N. Second Street, St. Charles, Missouri 63303, the plaintiff was designated to serve his twenty year term of imprisonment at the Federal Correctional Institution in Danbury, Connecticut.

Prior to being confined, the plaintiff resided in the state of Texas.

III. DEFENDANT

The defendant, Nick Zotos, at all times mentioned in the instant complaint was an attorney duly licensed to practice law in the state of Missouri.

The defendant's prinicipal office and primary residence are both located in the state of Missouri.

IV. FACTS

1. The plaintiff, a resident of the state of Texas, retained defendant as legal counsel in the matter of United States of America v. Robert M. Sills, Case No. 4:10CR-573-HEA (United States District Court for the Eastern District of Missouri).

2. The plaintiff was charged in USA v. Sills, supra, with violating the federal witness tampering statute, 18 U.S.C. Section 1512 et seq., in 2010.

3. On May 26, 2011, the United States Supreme Court ruled in Fowler v United States, 563 U.S. ___ (2011), that the federal witness tampering statute was beyond the reach of federal law where it was not alleged that the purpose of the witness tampering was to prevent the victim from communicating information to a federal officer.

4. In June of 2011, the defendant advised the plaintiff to plead guilty in USA v. Sills, supra, despite the fact that there was no allegation that he intended to prevent the alleged victim from communicating information to a federal officer. At no time did the defendant advise the plaintiff that the Supreme Court's decision in Fowler v United States, supra, had placed his witness tampering indictment beyond the reach of federal law.

5. In March of 2013, the plaintiff's conviction in USA v. Sills, supra, was vacated and dismissed in light of the Supreme Court's decision in Fowler v. United States, supra.

6. Because the plaintiff has succeeded in over-turning his conviction in USA v. Sills, supra, he is now entitled to bring this action against the defendant. See Heck v. Humphrey, 512 U.S. 477 (1994).

V. CAUSE OF ACTION

The defendant, by his failure to advise the plaintff prior to directing the plaintiff to plead guilty in USA v. Sills, supra, that the Fowler decision had placed the plaintiff's alleged conduct beyond the reach of federal law, caused the plaintiff to plead guilty to a non-existent federal offense. The defendant knew, or reasonably should have known about the Fowler decision and should have advised the plaintiff about its impact on USA v. Sills, supra, before advising the plaintiff to plead guilty. Hence, the defendant is guilty of professional malpractice, a tort at common-law.

VI. RELIEF

The plaintiff seeks the following relief:

1. An award of damages in the amount of 2,000,000.00 (two million dollars in United States currency); and,

2. Such other and further relief as the Court deems just and proper.

ROBERT M. SILLS, Pro Se
Plaintiff
301 N. Second Street
St. Charles, MO 63303

Dated: March 7, 2017

VERIFICATION

Pursuant to 28 U.S.C. Section 1746, I, Robert M. Sills, under the penalty of perjury, hereby declare that the above statements are true and correct.

ROBERT M. SILLS
Dated: March 7, 2017